

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

GARY SMITH,

Plaintiff,

-v.-

Civil Action No.
9:08-cv-469 (GLS/RFT)

M. GRAZIANO, Acting Superintendent
Deputy Superintendent of Administration,
Greene Correctional Facility; PHILIP HEATH,
Deputy Superintendent of Programs, Greene
Correctional Facility; JOHN DOE, Correctional
Officer #1, Greene Correctional Facility; JOHN
DOE, Correctional Officer #2, Greene Correctional
Facility; JOHN DOE, Correctional Officer #3,
Greene Correctional Facility; and JOHN DOE,
Ministerial Program Coordinator, Greene
Correctional Facility

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

GARY SMITH
Plaintiff, *Pro Se*
89-B-0058
Fishkill Correctional Facility
P.O. Box 1245
Beacon, New York 12508

**FOR DEFENDANTS GRAZIANO
AND HEATH:**

HON. ANDREW M. CUOMO
Attorney General of the
State of New York
The Capitol
Albany, New York 12224

STEVEN H. SCHWARTZ, ESQ.
Assistant Attorney General

GARY L. SHARPE,
U.S. DISTRICT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge Randolph F. Treece, duly filed March 16, 2010. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed¹, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge Randolph F. Treece filed March 16, 2010 is ACCEPTED in its entirety for the reasons state therein and with consent of the plaintiff, and it is further

ORDERED, that the John Doe defendants are dismissed due to Plaintiff's failure to timely identify and serve such individuals, and it is further

ORDERED, that the Defendants' Motion for Summary Judgment (Dkt.

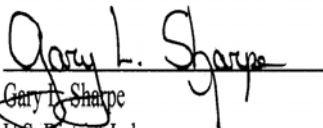
¹Plaintiff Smith filed a letter on March 25, 2010 requesting to voluntarily dismiss the case on all claims. *See Dkt. No. 64.*

No. 47) is granted and the entire amended complaint is dismissed; and it is further

ORDERED, that the Clerk of the court serve a copy of this order upon the parties in accordance with this court's local rules.

IT IS SO ORDERED.

Dated: April 6, 2010
Albany, New York


Gary L. Sharpe
U.S. District Judge